

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:19-CV-542-D

J AND M GUTIERREZ, INC., )  
Plaintiff, )  
v. )  
UNITED STATES DEPARTMENT OF )  
AGRICULTURE, )  
Defendant. )

**ORDER**

On April 24, 2020, the United States Department of Agriculture (“defendant”) moved to dismiss plaintiff’s complaint for lack of subject-matter jurisdiction or, alternatively, for failure to state a claim upon which relief can be granted [D.E. 10] and filed a memorandum in support [D.E. 11]. See Fed. R. Civ. P. 12(b)(1), (6). On June 23, 2020, plaintiff responded in opposition [D.E. 15]. Having reviewed the record and governing law under the governing standard, the court DENIES defendant’s motion to dismiss [D.E. 10]. See, e.g., Affum v. United States, 566 F.3d 1150, 1154–55, 1160–61 (D.C. Cir. 2009); Simone Enters., LLC v. U.S. Dep’t of Agric., No. 11-CV-301, 2011 WL 3236222, at \*3 (E.D. Wis. July 27, 2011 (unpublished); Dasmesh Enters., Inc. v. United States, 501 F. Supp. 2d 1033, 1039–40 (W.D. Mich. 2007); 7 C.F.R. §§ 278.6(f)(1), 279.7(a).

SO ORDERED. This 24 day of November 2020.

J. Dever  
JAMES C. DEVER III  
United States District Judge